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Subject: Draft litigation TPs
Date: Friday, June 15, 2018 1:41:02 PM
Importance: High

Environmental Law and Policy Center's (ELPC) Litigation Regarding EPA Approval of Ohio's 2016 303(d) List; and Progress on EPA's review of Ohio's Final 2018 list

- (b) (5)

[Redacted]

- [Redacted]

[Redacted]

- [Redacted]

Status of R10's Forthcoming Action on Deschutes TMDLs

- Region 10 plans to act on Washington's TMDLs for the Deschutes river by June 29th, the date that EPA committed to in briefs filed with the court.
- Regarding the 73 TMDLs that the State submitted, (b) (5)

[Redacted]

- R10 program staff briefed the RA on the proposed actions in May. After conferring with the state, the RA plans to call Dave to discuss the Region's plans.

Background

- The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015. That document addresses a total of 73 waterbody-pollutant combinations, involving temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment impairments. The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington.
- On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.
- As part of the ongoing litigation, EPA has stated in briefs that we will act on the Deschutes

TMDL by June 29, 2018. The judge has denied EPA's motion to stay the case until June 29, but has not yet ruled on the plaintiff's motion for summary judgment, and recommended a consent decree or stipulated entry of judgment to ensure EPA action on the TMDL.